THE HONOURABLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 13596 OF 2005

ORDER:

(Per the Honourable Sri Justice R. Subhash Reddy)

This Writ Petition is filed in public interest, questioning the decision of the respondents in identifying the land in Sy.Nos. 188/1, 118/2, situated in Chandapuram village, Nandigama Mandal, Krishna District, for the purpose of constructing 132/133 K.V. substation, as arbitrary, illegal and violative of Articles 14, 19(i) (g) and 300(A) of the Constitution of India and against the public interest, and, for a direction to the respondents to acquire the land at a suitable place for construction of sub-station.

In the affidavit filed by the second petitioner on behalf of all the petitioners, in support of the Writ Petition, it is stated that the petitioners own small extents of land in and around Nallavagu rivulet in Nandigama village, and, the said Nallavagu rivulet originates in Vedadri hills and, after flowing through various villages, ultimately it joins Kanchella Cheruvu before flowing into river Krishna. Primarily, this Writ Petition is filed raising two objections as to the location of site for construction of sub-station, namely, (1) that the land which is identified for construction of sub-station is very nearer to Nallavagu rivulet, as a result of which, there is a possibility of the sub-station being inundated during rainy season in addition to obstruction of flow of Nallavagu rivulet, and it would also result in inundation of the petitioners' agricultural lands. There are other alternate sites belonging to the Endowments Department, which are suitable for location of such substation, and, (2) the land which is now sought to be acquired belongs to one Sri K.Venkata Narayana, who

had purchased the said land at the rate of Rs.30,000/- per acre, and, also entered into agreement with one K.Mohana Murthy, and the same is now being purchased by the A.P.Transco at the rate of of Rs.4.00 lakh per acre which is exorbitant and it would cause huge financial loss to the AP TRANSCO.

On behalf of the respondents, counter affidavits are filed by the concerned District Collector, and, Executive Engineer of AP TRANSCO, which had requisitioned the said land for acquisition. In the counter affidavits filed on behalf of the respondents, it is stated, that the site, which is chosen for construction of sub-station is abutting the National HighWay-9, and near to the road leading from Nandigama to Chandariapadu, and the proposed site is suitable for construction of sub-station. It is further stated, that after conducting inspections, the said site was found suitable for construction of substation, and, as such, proceedings were initiated for acquisition of the land, and, notifications under Sections 4(1) and 6 of the Land Acquisition Act, 1894, were also published. It is also stated that pursuant to the representation submitted by the petitioners, local enquiry was conducted by the Mandal Revenue Officer, and Sub Collector, and, it is stated that the site in question is suitable for construction of sub-station, and, they have also considered the land belonging to the Endowments Department vis-à-vis the proposed site, and, ultimately decided to construct the sub-station in the land in question. They have denied the allegations of the petitioners that construction of substation will result in inundation of lands of the petitioners, and, would cause danger. Lastly, it is stated that the construction of substation is in the interests of the public at large, as the same will remove the problem of low voltage, which is causing obstruction in the developmental activities in the nearby villages.

It is submitted by Sri Nooty Rammohan Rao, the learned Counsel appearing for the petitioners, that the proposed location is very nearer to Nallavagu rivulet, and, if sub-station is constructed in the land in question, the same will result in inundation of the adjoining agricultural lands and there are also other dangers due to the substation. It is further submitted that leaving aside the other suitable lands, the site in question is chosen only to benefit the owner of the land.

On the other hand, it is submitted by the learned Government Pleader appearing for

the respondents that on raising objections by the petitioners, a detailed enquiry was conducted, and, the enquiry also reveals that the proposed site is suitable for construction and denied the allegations of the petitioners. It is further submitted that proceedings are initiated under the provisions of the Land Acquisition Act, 1894 and approximate compensation was deposited and award will be passed after conducting enquiry as per the provisions of the Land Acquisition Act, 1894. The learned Government Pleader placed reliance on the report sent by the Sub-Collector to the District Collector, Krishna District, dated 27.7.2005 in proceedings Rc. No. B1/2213/2004.

On the above conspectus, what has to be culled out is that some of the petitioners and others seem to have filed representation to the Chairman and Managing Director, AP TRANSCO objecting to the construction of sub-station in the site in question. At the instance of the Chairman & Managing Director, AP TRANSCO, and on the instructions issued by the District Collector, Krishna district, a detailed enquiry was conducted by the Sub-Collector. Initially he sought for a report from the concerned Mandal Revenue Officer, and, ultimately, Sub Collector had inspected the site in question. In the report submitted by the Sub Collector to the District Collector, it is clearly stated that the objectors and other villagers have participated in the enquiry, and, it revealed that there was no occasion of the flood water of Nallavagu rivulet inundating the agricultural lands of the said village. The enquiry further reveals that there will not be any danger if substation is constructed in the site already identified. It is also stated, in the report, that they have tried to select the alternate land, but, on consideration of the suitability of the land in question vis-à-vis other lands, selected the site under acquisition for construction of sub-station. In view of what is stated in the counter affidavit and the enquiry report submitted by the Sub-collector, it cannot be said that by constructing sub-station at the site in question, it will have any effect either on the agricultural lands of the petitioners or others.

As seen from the above, it cannot be said that any public interest will suffer in allowing the respondents to construct sub-station on the disputed site. Moreover, this court in exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution of India cannot decide as to which place is a suitable place for a particular purpose.

The authorities are the better persons to identify the place. It is stated in the enquiry report that they have even considered as to the suitability of alternate lands, but, found that the land in question is best suited for construction of the sub-station and the very construction of sub-station is in the larger public interest to improve the electric power supply in the nearby villages.

Even the other allegation of the petitioners that the said site is chosen only to benefit the owner cannot also be accepted. The respondents have not purchased the said land out rightly, and, they have initiated proceedings under the provisions of the Land Acquisition Act, 1894 and issued necessary notifications under Sections 4(1) and 6 of the Act. Though allegations are levelled against the owner and purchaser of the proposed land, but they were not made parties to this writ petition. In any event, no material is placed before us to show that the respondents have decided to purchase the land at exorbitant price. Fixation of compensation for the proposed acquisition is within the realm of the concerned Land Acquisition Officer and the same would be fixed after following the due procedure contemplated under the provisions of the Land Acquisition Act, 1894. Viewed from this angle also, it cannot be said that the respondents have chosen the location only to benefit the owner of the land.

In view of the above, we do not find any merit in the Writ Petition for issuance of directions as sought for. The Writ Petition is accordingly dismissed. No order as to costs.

(BILAL NAZKI, HACJ)

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JUSTICE R. SUBHASH REDDY

DATED: 25—11--2005.

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